Unofficial Copy K1 2004 Regular Session 4lr1640 CF 4lr1649

By: Senator Astle

Introduced and read first time: February 6, 2004

Assigned to: Finance

A DILL ENGINEED

A BILL ENTITLED

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1	AN	ACL	concerning
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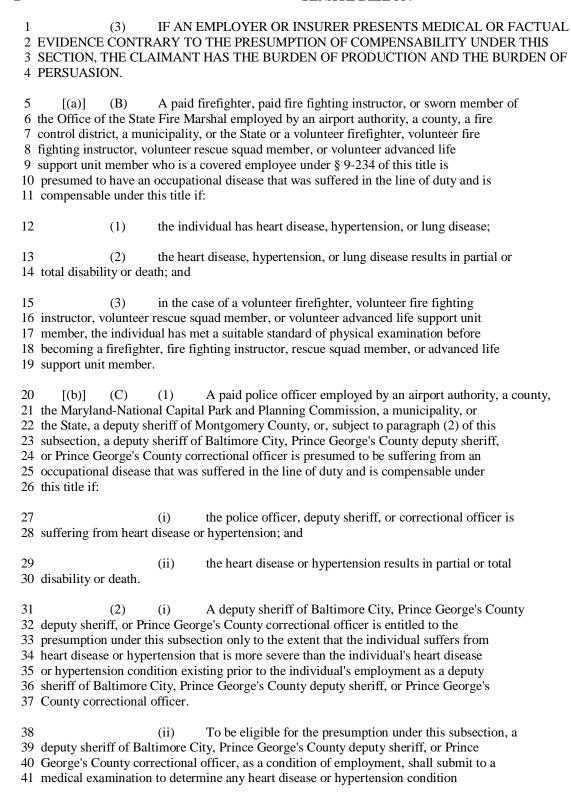
2 Workers' Compensation - Presumptions

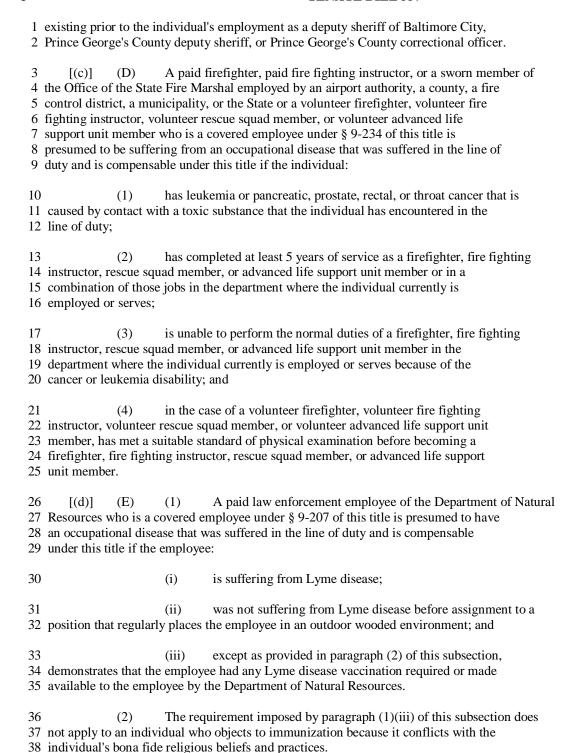
- 3 FOR the purpose of providing that the presumption of compensability of certain
- 4 occupational diseases under workers' compensation law is rebuttable; providing
- 5 that the presumption of compensability shifts the burden of production to an
- 6 employer or insurer to overcome the presumption; providing that, if an employer
- 7 or insurer presents medical or factual evidence contrary to the presumption of
- 8 compensability, the claimant has the burden of production and the burden of
- 9 persuasion; limiting the application of certain presumptions of compensability to
- an individual who has been retired for a certain period of time; stating the
- intent of the General Assembly regarding the ability of an expert witness to
- provide certain testimony; and generally relating to presumptions of
- compensability under workers' compensation law.
- 14 BY repealing and reenacting, with amendments,
- 15 Article Labor and Employment
- 16 Section 9-503
- 17 Annotated Code of Maryland
- 18 (1999 Replacement Volume and 2003 Supplement)
- 19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 20 MARYLAND, That the Laws of Maryland read as follows:

21 Article - Labor and Employment

- 22 9-503.
- 23 (A) (1) THE PRESUMPTION OF COMPENSABILITY UNDER THIS SECTION IS
- 24 REBUTTABLE.
- 25 (2) THE PRESUMPTION OF COMPENSABILITY UNDER THIS SECTION
- 26 SHIFTS THE BURDEN OF PRODUCTION TO AN EMPLOYER OR INSURER TO OVERCOME
- 27 THE PRESUMPTION.

SENATE BILL 557





SENATE BILL 557

- 1 [(e)] (F) (1) Except as provided in paragraph (2) of this subsection, any paid
- 2 firefighter, paid fire fighting instructor, sworn member of the Office of the State Fire
- 3 Marshal, paid police officer, paid law enforcement employee of the Department of
- 4 Natural Resources, deputy sheriff of Montgomery County, deputy sheriff of Baltimore
- 5 City, deputy sheriff of Prince George's County, or Prince George's County correctional
- 6 officer who is eligible for benefits under subsection [(a),] (b), (c), [or (d)] (D), OR (E) of
- 7 this section shall receive the benefits in addition to any benefits that the individual is
- 8 entitled to receive under the retirement system in which the individual was a
- 9 participant at the time of the claim.
- 10 (2) The benefits received under this title shall be adjusted so that the
- 11 weekly total of those benefits and retirement benefits does not exceed the weekly
- 12 salary that was paid to the paid law enforcement employee of the Department of
- 13 Natural Resources, firefighter, fire fighting instructor, sworn member of the Office of
- 14 the State Fire Marshal, police officer, deputy sheriff, or Prince George's County
- 15 correctional officer.
- 16 (G) THE PRESUMPTIONS OF COMPENSABILITY UNDER THIS SECTION DO NOT
- 17 APPLY TO AN EMPLOYEE WHO HAS BEEN RETIRED FOR MORE THAN 5 YEARS FROM
- 18 THE EMPLOYMENT THAT THE EMPLOYEE ALLEGES IS THE CAUSE OF THE DISEASE.
- 19 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the
- 20 General Assembly that the provisions under § 9-503 of the Labor and Employment
- 21 Article concerning workers' compensation presumptions should not be construed to
- 22 preclude an expert witness from testifying about the cause of the disease solely
- 23 because the expert witness does not accept the basis for the statutory presumption.
- 24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 25 October 1, 2004.